

**To: Pack The Courts**

**From: YouGov Blue**

**Date: February 28, 2018**

**Memo: Public Opinion on Recent and Upcoming Supreme Court Decisions**

On behalf of Data for Progress, YouGov Blue fielded an online survey of 1,282 US voters on YouGov's online panel from January 25, 2019 to January 29, 2019. The data was weighted to be representative of the national voter population by age, race, sex, education, and Census region using a frame of 2018 registered voters. The survey margin of error was +/-3%.

The survey included a module on the United States Supreme Court. We asked respondents a variety of questions about recent and theoretical Supreme Court decisions.

**Key findings:**

- **Voters are generally able to identify the “partisanship-appropriate” opinion of major Supreme Court rulings, even complex ones**
- **There are clear exceptions to the first bullet point on certain cases with serious consequences for race relations in the United States**
- **Independents are closer to Democrats than Republicans in their view of major Supreme Court rulings**

**Recent Supreme Court cases**

Prior to the survey experiment, we asked respondents about a variety of Supreme Court cases and theoretical future cases, each prefaced with a short, nonpartisan informational statement. While the central crux of many cases contained clear ideological cues, others did not. In the following section we briefly review our findings.

*Karnoski v. Trump*

The case of *Karnoski vs. Trump* concerns Trump's 2018 decision to ban transgender servicepeople from the military. Specifically, we asked respondents:

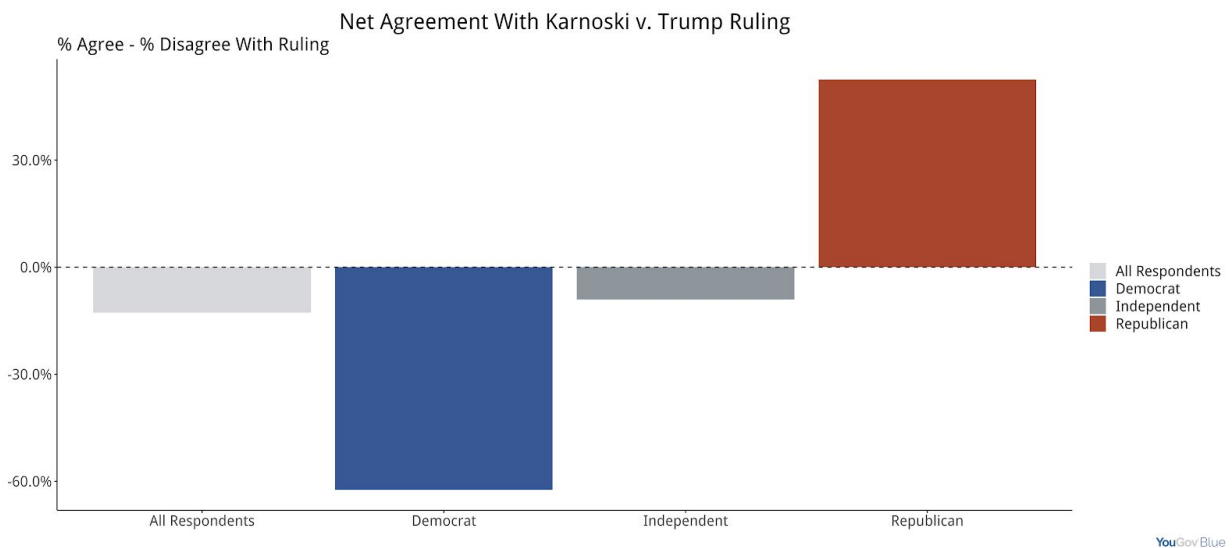
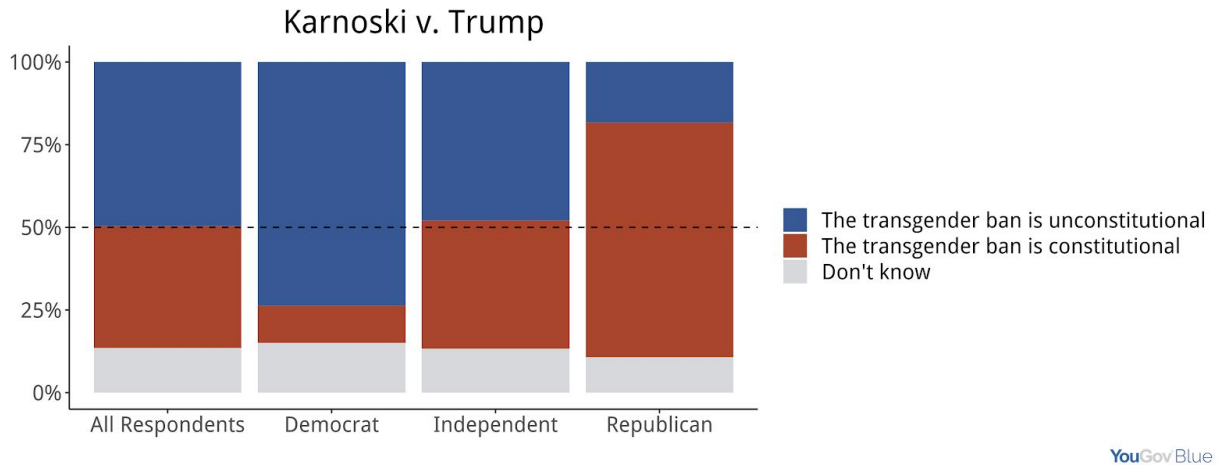
*The case of Karnoski v. Trump concerns President Trump's executive order to ban transgender people from serving in the military. The plaintiffs argue that the executive order is an unconstitutional violation of equal rights and protections for transgender servicepeople. The defendants argue that the President as Commander in Chief has the authority to decide who can serve. Which comes closer to your view?*

*<1> The transgender ban is unconstitutional*

*<2> The transgender ban is constitutional*

*<3> Don't know*

By a 50%-37% margin, voters overall felt that the transgender ban was unconstitutional. Among those who had an opinion, Independents narrowly sided with Democrats by a 48%-39% margin.



## ***Burwell v. Hobby Lobby***

The case of *Burwell v. Hobby Lobby* was decided in 2014, and concerned the implementation of certain Health and Human Services regulations per the Affordable Care Act. Specifically, we asked respondents,

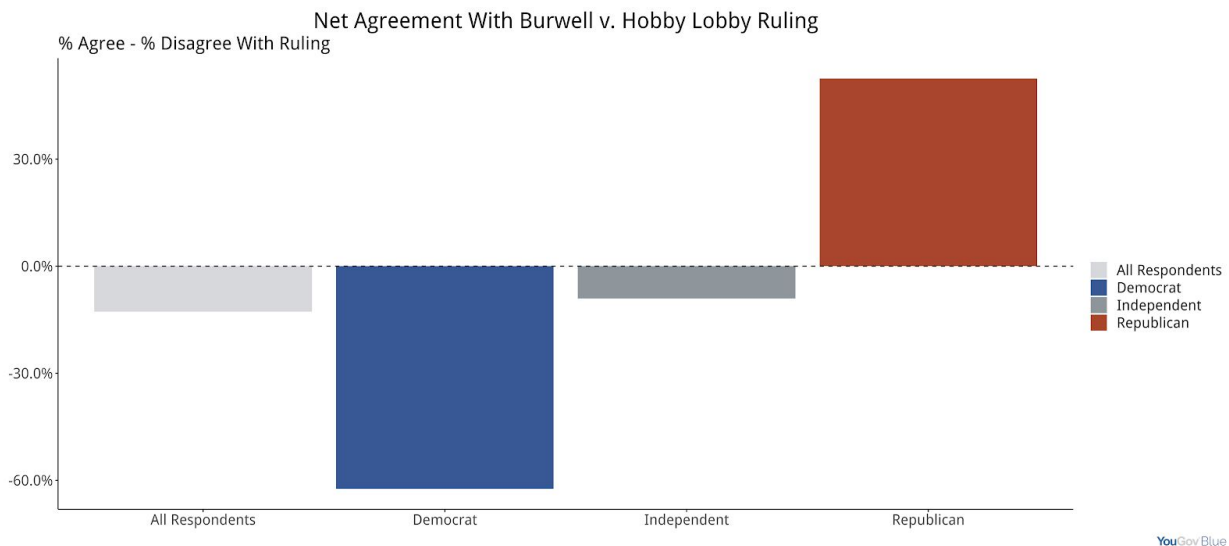
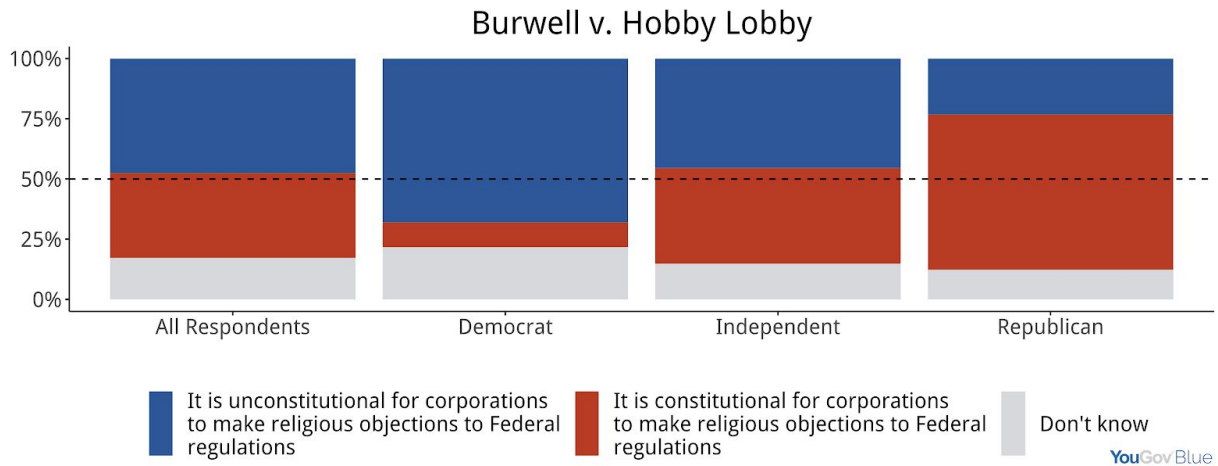
*In the 2014 ruling Burwell v. Hobby Lobby, the Supreme Court ruled that some corporations are exempt from regulations requiring those corporations to include birth control coverage in their insurance plans, which their owners objected to on religious grounds. Some say religious objections should not apply to corporations, while others say that they should. How do you feel about this ruling?*

*<1> It is unconstitutional for corporations to make religious objections to Federal regulations*

*<2> It is constitutional for corporations to make religious objections to Federal regulations*

<3> Don't know

As this case received significant partisan attention in 2014, it is not surprising that opinions on the constitutionality of the ruling follow clear partisan lines. Democrats oppose the ruling's constitutionality by a 68%-12% margin, and Republicans support it by a 64%-23% margin. Voters overall break in Democrats' favor, by a 48%-35% margin.



### *Regents of the University of California vs. Department of Homeland Security*

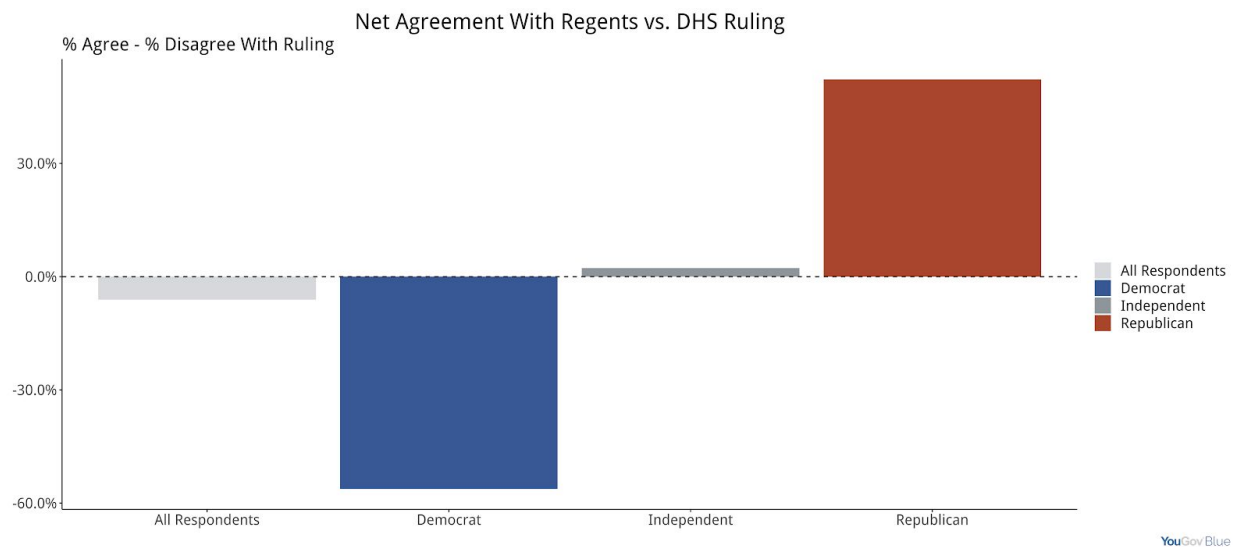
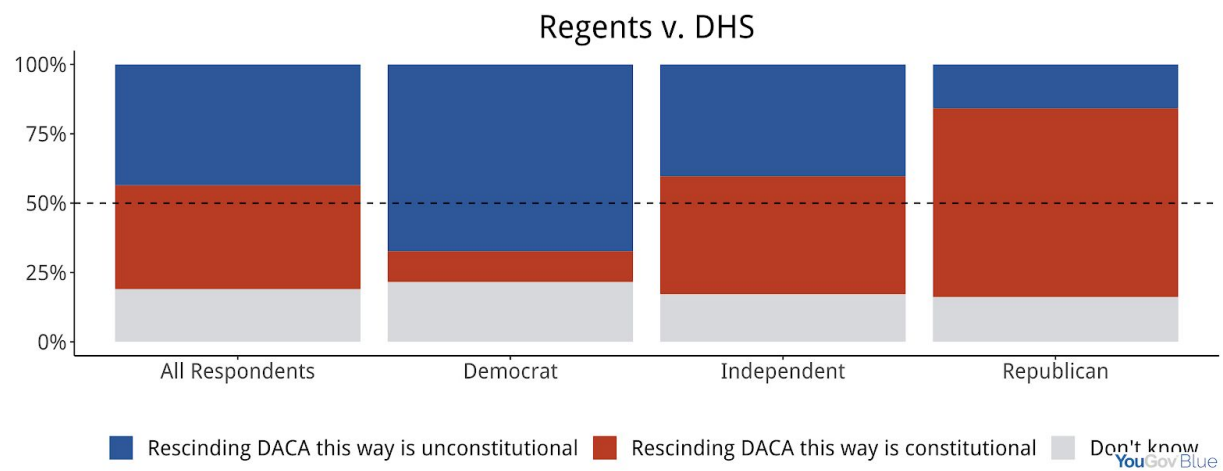
The case of *Regents of the University of California vs. Department of Homeland Security* concerns Trump's attempt to rescind Deferred Action for Childhood Arrivals. We asked respondents,

*The case of Regents of the University of California v. Department of Homeland Security concerns President Trump's executive order to end Deferred Action for Childhood Arrivals, known as DACA.*

*The plaintiffs argue that the executive order is an unlawfully arbitrary and capricious means of revoking protected status for young immigrants. The defendants argue that the President has the right to extend or revoke immigration protections. Which comes closer to your view?*

<1> Rescinding DACA this way is unconstitutional  
<2> Rescinding DACA this way is constitutional  
<3> Don't know

Unlike the aforementioned cases with clearly partisan cues involved, Independents narrowly sided with the Republican position on this case, although the net estimate is not statistically distinguishable from zero. Democrats oppose the ruling 67%-11%, Independents are split at 40%-42%, and Republicans overwhelmingly support the ruling 68%-16%.



*Parents Involved in Community Schools v. Seattle School District No. 1*

The case of *Parents Involved in Community Schools v. Seattle School District No. 1* concerns a somewhat involved process through which school districts assign students to schools. We asked respondents,

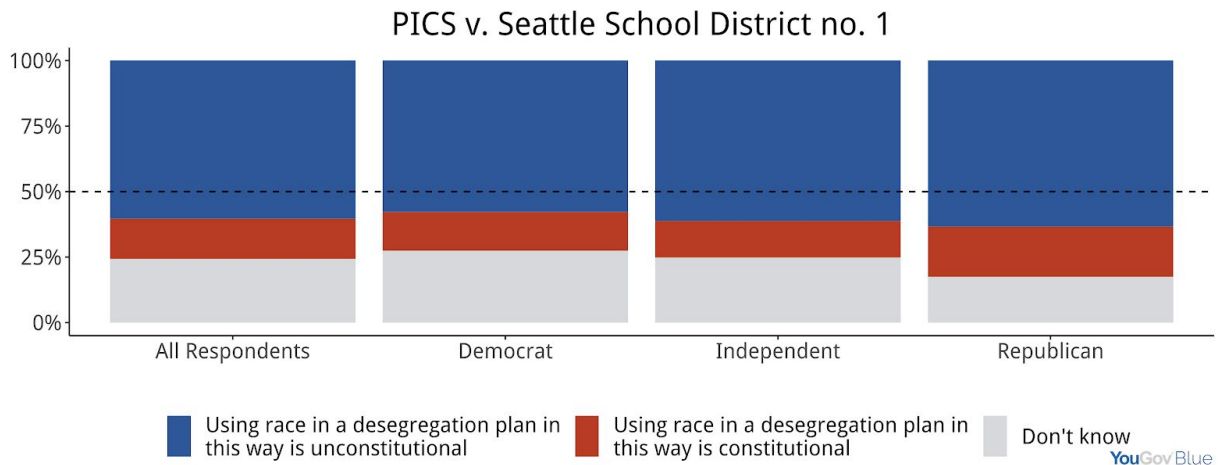
*In Parents Involved in Community Schools v. Seattle School District No. 1, the Supreme Court ruled that it was unconstitutional for school districts to use students' race as a tiebreaker when choosing which students should attend which schools. The plaintiffs argued that using student race as a tiebreaker in school assignments served interests other than desegregation. The defendants argued that using race as a tiebreaker predominantly served desegregation interests. How do you feel about this ruling?*

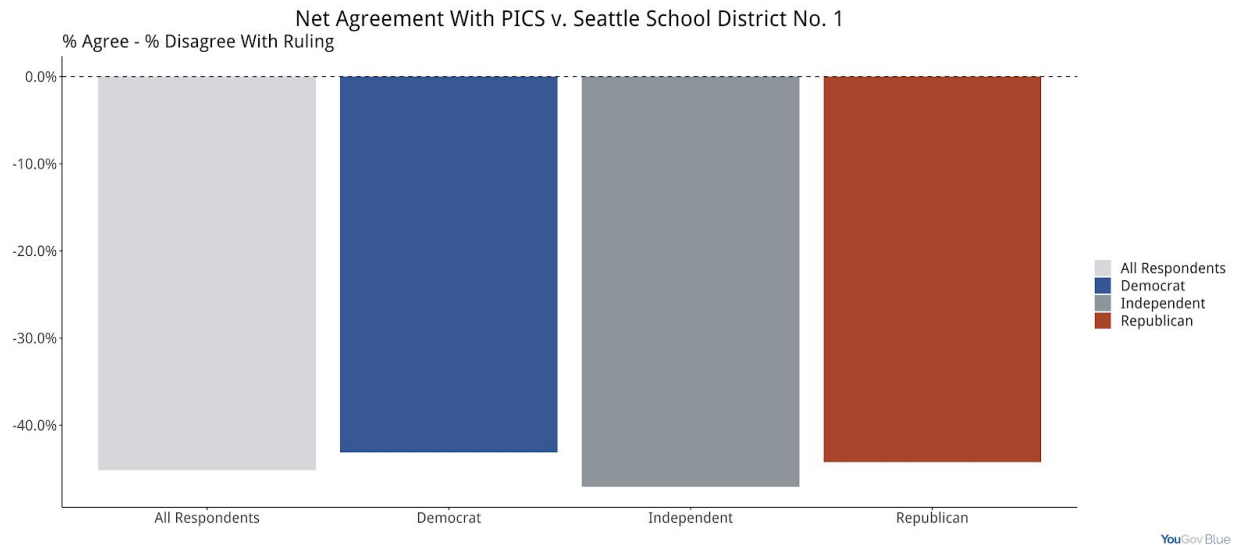
<1> Using race in a desegregation plan in this way is unconstitutional

<2> Using race in a desegregation plan in this way is constitutional

<3> Don't know

The item primed a number of factors at once, including segregation and the state using race to make educational decisions. It is not likely voters were able to successfully untangle partisan cues from the case, and we found overwhelming opposition to the ruling across the political spectrum.





### *Shelby County v. Holder*

The 2013 case *Shelby County v. Holder* was a crucial part of the Republican war on voting rights. It concerned the requirement that states with a history of voter suppression get Federal “pre-clearance” before imposing any changes to the state’s voting rules or redistricting maps. In this ruling, Chief Justice Roberts famously argued that “The conditions that originally justified these [pre-clearance] measures no longer characterize voting in the covered jurisdictions,” that voter suppression was no longer a sufficient force in the United States to justify the preclearance standard. The ruling has since paved the way for a fresh set of attacks on voting rights.

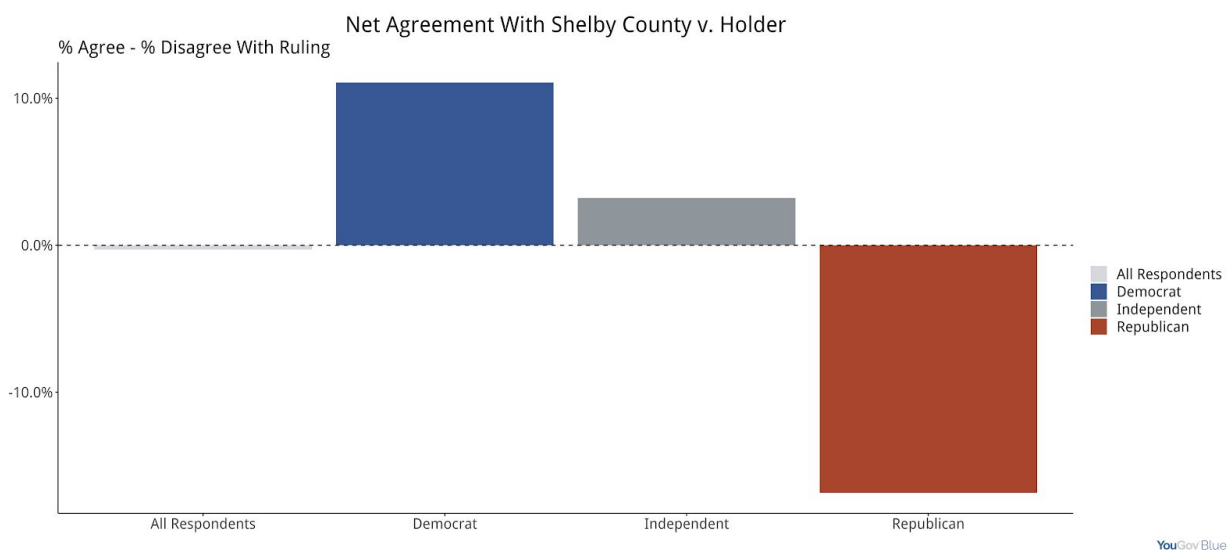
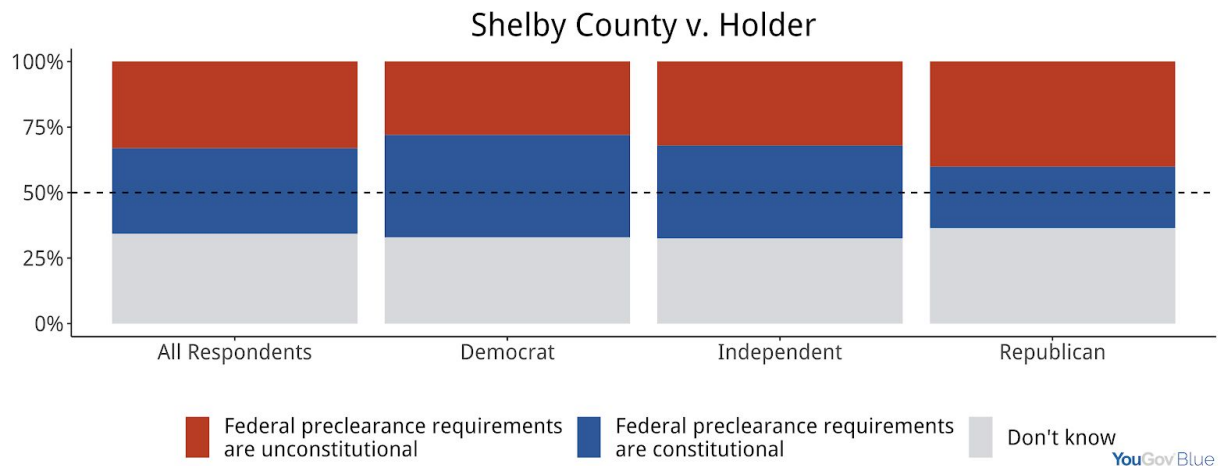
We asked respondents,

*In the 2013 ruling Shelby County v. Holder, the Supreme Court ruled that it was unconstitutional to require some states to “pre-clear” any changes to voting laws if those states have a history of racial discrimination in their voting rules. Some say that requirement was necessary to prevent states from drawing districts in ways that disenfranchise non-white voters, while others say the “preclearance” standard was outdated. How do you feel about this ruling?*

- <1> Federal preclearance requirements are unconstitutional
- <2> Federal preclearance requirements are constitutional
- <3> Don’t know

Perhaps surprisingly, the partisan divide on this ruling was stark but not as large as it was on other rulings. The net divide between Democrats and Republicans over *Hobby Lobby* was 88% (Democrats opposed it 68%-21% while Republicans opposed it 23%-64%), for example. The net divide on *Shelby County v. Holder* was just 28% by comparison, with Democrats opposing the ruling 28%-39% and Republicans supporting the ruling 23%-40%. Across the board, about

one-third of voters (34% of all voters, 33% of Democrats, 36% of Republicans, and 33%) had no opinion on the ruling.



### *Constitutionality of Redistricting Commissions*

There is some belief that the current Supreme Court intends to hear arguments on the Constitutionality of independent redistricting commissions in the near future. While this item did not concern an existing case, it was based on a general belief among legal scholars. We asked respondents,

*Legal scholars believe the Supreme Court will revisit the constitutionality of non-partisan redistricting commissions. Non-partisan redistricting commissions are used in some states to draw new legislative district boundaries, while in other states, the*

legislatures draw district boundaries. Which of the following comes closest to your view?

<1> Non-partisan redistricting commissions are unconstitutional

<2> Non-partisan redistricting commissions are constitutional

<3> Not sure

Unlike previous voting-related items, voters across the board overwhelmingly agree that redistricting commissions are constitutional. Net support for independent redistricting commissions is positive across electoral subgroups.

